REMARKS

Claims 1-17 are pending in the application, and claims 34-39 are withdrawn. Claims 18-33 and 40-43 are canceled, such canceled claims having been filed in a Divisional Application filed September 28, 2005. A serial number has not yet been received for this Divisional.

The specification and one claim are each amended to correct a typographical error. A Proposed Drawing Correction was filed on September 23, 2005.

No new matter has been added.

Reconsideration and allowance of all claims are respectfully requested in view of the following remarks.

- At paragraph 3 of the present action, Figure 3 is objected to under 37 C.F.R. § 1.84(p)(4) regarding reference characters "11" and "12." By this Amendment, the specification changes the term "tubes 11" to be "tubes 12" in the description of Fig. 3 (at page 10, lines 15-21). A Proposed Drawing Correction is concurrently submitted, wherein reference character "11" is changed to --12--. Applicants respectfully submit that the objection is thereby obviated and should be withdrawn.

- At paragraph 4 of the present action, Fig. 5 is objected to. The Proposed Drawing Correction removes reference character "59" from Fig. 5. Applicants respectfully submit that this change obviates the Fig. 5 objection.

- At paragraph 6 of the present action, claims 4-11 and 13-14 are objected to for their respective use of the term "chart." The objection states that the claims are objected to because a specific chart is not referred to by the claims, citing MPEP § 608.01. Applicants respectfully submit that the objection is inappropriate and should be withdrawn because MPEP § 608.01 is addressed to 'formalities of a specification' and does not mandate any correlation between the claims and any description of a particular embodiment, as implied by the objection.

Applicants note that examples of charts are provided in Figs. 9A and 9B, and are described at page 14 of Applicants' specification to not only include charts such as Figs. 9A-9B, but also to include relational databases and other types of charts.

- Claims 9-10 and 16 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection because the claim language is clear and unambiguous. Therefore, Applicants respectfully request the § 112, second paragraph rejection of claims 9-10 and 16 be withdrawn.

Applicants note that, if the rejection were based on 35 U.S.C. § 112, *first* paragraph, support for exemplary lighting switch patterns is found, for example, in Applicants' specification at page 14, line 30 to page 15, line 3, and at page 16, lines 6-8.

- Claims 1, 3-7, and 11-15 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Lee* (U.S. Patent No. 4,599,684). Applicants respectfully traverse this rejection.

The claimed method uniquely allows for selectively configuring a fluorescent lighting fixture for customizing a proportion of uplight versus downlight emitted by the fixture. The method includes selectively installing a reflector of a first type or a second type in respective ones of the plurality of lateral reflector positions, where the first type reflector has a greater uplighting capacity compared to the second type reflector. The selective installation of the reflectors determines a proportion of uplight versus downlight.

Lee does not teach or suggest anything concerning uplighting (emphasis added). Therefore, *Lee* does not teach or suggest any method that includes selectively installing a first type reflector or a second type reflector in respective ones of the plurality of lateral reflector positions, the first type reflector having a greater uplighting capacity compared with the second type reflector, whereby the selectively installing determines a proportion of uplight versus downlight, as claimed.

Rather, *Lee* discloses a reflector arrangement having a first reflector with a hinge-like joint that may be translated during installation toward or away from the housing top and sides (e.g., col. 4: lines 18-21). A second reflector has a ridge with a V-shaped cross section, the second reflector being attachable with its base against the housing top and being positionable so that the ridge edge is in a vertical line with a tube center (e.g., col. 4: lines 31-35). Such a structure is used in a method for selecting a particular reflector configuration according to the dictates imposed by the geometry of an asymmetrical housing (e.g., col. 8: lines 35-38). The arrangement of the first reflector 36 prevents emitted light from being reflected back towards the tube 30 and minimizes the number of reflections within the housing 24 (e.g., col. 5: lines 50-54). A second reflector 54 assists in maximizing light reflected out of housing 24 and minimizing interior reflections, by being placed at an intercept angle that depends on a number of V-sections in the second reflector 54 and on a vertical distance from an adjacent tube 30 and a housing top 28 (e.g., col. 7: line 63 to col. 8: line 10). In the example of Fig. 7, the second reflector preferably has a shape as shown by reflector 144 when tube 146 is a distance 150 from the top of housing 154, and has a shape as shown by reflector 156 when tube 148 is a distance 152 from the top of housing 154 (e.g., col. 8: lines 40-45). Such allows the intercept angle to be adjusted to assist the above-noted maximizing of light reflected out of housing 24 and minimizing of interior reflections.

The ground of rejection (i.e., Office action, at ¶ 12, third bullet) posits that a reflector type 144 has "a greater uplighting capacity (variable orientation of the structure) compared with the second type reflector (156)." Applicants respectfully submit that there is no support for such an assertion. None of the examples in *Lee* are related to uplighting, as that term is used in Applicants' specification.

Uplighting is a well-known term used in the lighting industry referring to fixtures that cast light upwards, for example when used for bouncing indirect light off the ceiling and back down, though this is less efficient than direct lighting (e.g., <www.nationmaster.com/encyclopedia/Lighting>). In the same context, downlighting is a well-known term referring to fixtures that cast their light downward. In commercial definitions, "uplighting" is "lighting that is directed in such a manner as to shine light rays above the horizontal plane" (e.g., <www.ci.sandy.or.us/municipal_code/Buildings__Construction/Dark%20Sky%20Ordinance.htm

>). Uplighting, in general, refers to an "upward component" - "that portion of the luminous flux from a luminaire emitted at angles above the horizontal." (The IESNA Lighting Handbook, Ninth ed, Illuminating Engineering Society of North America, New York, 2000, p. G-36, "Glossary of Lighting Terminology").

Since the *Lee* reference does not teach or suggest anything regarding uplighting, the ground of rejection fails to state a *prima facie* case of obviousness, for several reasons. First, there would have been no suggestion or motivation to have modified the *Lee* method of installing reflectors because *Lee* does not suggest the desirability of the claimed invention but, rather, includes a stated purpose of maximizing the amount of light being reflected out of the fixture, which would be rendered unsatisfactory, for example, by a use of indirect light that included uplighting with translucent reflectors. See, e.g., In re Rouffet, 47 USPQ2d 1453 (Fed. Cir. 1998), In re Gordon, 221 USPQ 1125 (Fed. Cir. 1984), each cited in MPEP § 2143.01. Second, *Lee* does not teach or suggest all the claim limitations. MPEP §§ 2142, 2143 (case citations omitted). Specifically, *Lee* does not teach or suggest a method that includes selectively installing a reflector of a first type or a second type in respective ones of the plurality of lateral reflector positions, wherein the first type reflector has a greater uplighting capacity compared to the second type reflector, whereby the selectively installing determines a proportion of uplight versus downlight, as claimed in independent claim 1, a method that includes providing a plurality of reflectors of a first type and a second type, the reflectors for being selectively installed in respective ones of the plurality of lateral reflector positions, wherein the first type reflector has a greater uplighting capacity compared to the second type reflector, and wherein selective installation of the reflectors determines a proportion of uplight versus downlight, as claimed in claim 12, or a method for achieving a desired proportion of uplight versus downlight, the method comprising providing a program product operative for selecting between a first type reflector and a second type reflector for installation at a given one of a plurality of reflector positions, wherein the first type reflector has a greater uplighting capacity compared to the second type reflector, as claimed in claim 15.

Since *Lee* does not teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

Claims 3-7, 11, 13, and 14 are patentable at least by virtue of their respective dependencies from independent claims 1 or 12. In addition, *Lee* fails to teach or suggest an interchanging a reflector of the first type and a reflector of the second type in at least one of the reflector positions, as claimed in claim 3, referring to a chart for selecting between the first type reflector and the second type reflector for installation at a given one of the plurality of reflector positions, as claimed in claim 4, the chart being based on the number of lateral reflector positions and the respective translucences of the first type reflector and the second type reflector, as claimed in claim 5, the chart being based on lighting requirements for given areas within a facility, as claimed in claim 6, the chart being based on a number and proximity of other lighting fixtures, as claimed in claim 7, the chart being a program product implemented on a computer, as claimed in claim 11, providing a chart that is referenced for selecting between the first type reflector and the second type reflector for installation at a given one of the plurality of reflector positions, as claimed in claim 13, the chart being based on the number of lateral reflector positions and the respective translucences of the first type reflector and the second type reflector, as claimed in claim 14, or a method for achieving a desired proportion of uplight versus downlight, the method comprising providing a program product operative for selecting between a first type reflector and a second type reflector for installation at a given one of a plurality of reflector positions, wherein the first type reflector has a greater uplighting capacity compared to the second type reflector, as claimed in claim 15.

In fact, the Examiner does not allege that the reference teaches or suggests what is claimed but, instead, takes the position that the claimed methods would have been obvious because the respective missing claim limitations would have been "well-known." Applicants respectfully disagree and respectfully request the Examiner cite appropriate references. MPEP § 2144.03. Further, the statements in the ground of rejection fail to identify how alleged well-known methods teach or suggest all the claim limitations which, again, fails to meet the examiner's initial burden of factually supporting any prima facie conclusion of obviousness. MPEP § 2142 (case citations omitted).

Still further, the statements at ¶13 of the Office action are incorrect because Lee does not disclose any method of uplighting or any of the claim limitations enumerated above.

In addition, the statements of ¶14 of the Office action are inaccurate because column 8, lines 17-20 of *Lee* indicates "[r]eflector 118 can be formed from an extruded plastic strip about 1 inch in width onto which is deposited a metallized reflective surface,"and such does not in any way imply that a reflector can be translucent. The statements in ¶14 are inappropriate because, as previously stated, the proposed modification of *Lee* to include any translucent panel would be contrary to the stated purposes of *Lee*. In addition, the statements are incorrect because they include an unsupported reliance on allegedly "well-known" properties that are unsupported and that are false, for example because plastic need not be translucent. Applicants respectfully request the Examiner cite appropriate references to support statements. MPEP § 2144.03.

Thus, it appears that the Examiner has engaged in improper hindsight analysis and has selected parts of the individual *Lee* reference without consideration of the invention as a whole (emphasis added). *See* In re Wesslau, 147 USPQ 391, 393 (CCPA 1965)("impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art"). There is nothing in the applied reference to suggest what is claimed, and it is respectfully submitted that the Examiner's statements are unsupported by any reasoning other than that gleaned from Applicant's disclosure.

For the above reasons, Applicants respectfully request the § 103 rejection of claims 1, 3-7, and 11-15 be withdrawn.

- Claims 2, 8-10, 16, and 17 stand rejected under 35 U.S.C. § 103(a) as being obvious over *Lee* in view of *Eckel et al.* (U.S. Patent No. 5,946,209). Applicants respectfully traverse this rejection.

The *Eckel et al.* secondary reference does not cure the above-identified deficiencies of the primary reference, at least because *Eckel* also does not teach or suggest anything about uplighting. It follows that *Eckel* does not teach or suggest any method for selectively installing a reflector of a first type or a second type in respective ones of the plurality of lateral reflector positions, where the first type reflector has a greater uplighting capacity compared to the second type reflector, or any method where a selective installation of the reflectors determines a proportion of uplight versus downlight.

Since the applied references, alone or in combination, fail to teach or suggest all the claim limitations, the Examiner's statement of alleged motivation is inapposite.

In addition, claims 2, 8-10, 16, and 17 are patentable at least by virtue of their respective dependencies from independent claims 1 or 15.

For the above reasons, Applicants respectfully request the § 103 rejection of claims 2, 8-10, 16, and 17 be withdrawn.

Request for Interview

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly **requested to call** the undersigned at the telephone number listed below.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 10-0270.

Respectfully submitted,

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